

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: PROCESSED EGG PRODUCTS  
ANTITRUST LITIGATION**

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**MDL No. 2002  
08-md-02002**

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**THIS DOCUMENT RELATES TO:  
All Indirect Purchaser Actions**

**INDIRECT PURCHASER PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Indirect Purchaser Plaintiffs ("Plaintiffs") hereby move this Court for an Order certifying this action as a class action.

Plaintiffs respectfully request that the Court certify the following Injunction and Indirect Purchaser State Law Classes in this action:

**INJUNCTION CLASS**

All individuals and entities in the Class Jurisdictions<sup>1</sup> that purchased shell eggs during the Class Period from October 1, 2006 through the present from a retailer for their own use and not for resale and that intend to purchase shell eggs in the future. Specifically excluded from this class are Defendants' subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of "specialty" shell eggs, such as "organic," "free-range," "nutritionally enhanced," "cage-free," and hatching eggs.

**INDIRECT PURCHASER STATE LAW CLASSES**

**ARIZONA:**

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in Arizona. Specifically excluded from this class are Defendants' subsidiaries and affiliates, as well as individuals whose only

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<sup>1</sup> "Class Jurisdiction" refers to the following jurisdictions, separately: Arizona, California, Florida, Iowa, Kansas, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin. "Class Jurisdictions" refers to each of these Class Jurisdictions, collectively.

purchases of shell eggs were purchases of “specialty” shell eggs, such as “organic,” “free-range,” “nutritionally enhanced,” “cage-free,” and hatching eggs. (The “Arizona Indirect Purchaser Class”)

**CALIFORNIA:**

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in California. Specifically excluded from this class are Defendants’ subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of “specialty” shell eggs, such as “organic,” “free-range,” “nutritionally enhanced,” “cage-free,” and hatching eggs. (The “California Indirect Purchaser Class”)

**FLORIDA:**

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in Florida. Specifically excluded from this class are Defendants’ subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of “specialty” shell eggs, such as “organic,” “free-range,” “nutritionally enhanced,” “cage-free,” and hatching eggs. (The “Florida Indirect Purchaser Class”)

**IOWA:**

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in Iowa. Specifically excluded from this class are Defendants’ subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of “specialty” shell eggs, such as “organic,” “free-range,” “nutritionally enhanced,” “cage-free,” and hatching eggs. (The “Iowa Indirect Purchaser Class”)

**KANSAS:**

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in Kansas. Specifically excluded from this class are Defendants’ subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of “specialty” shell eggs, such as “organic,” “free-range,” “nutritionally enhanced,” “cage-free,” and hatching eggs. (The “Kansas Indirect Purchaser Class”)

MASSACHUSETTS:

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in Massachusetts. Specifically excluded from this class are Defendants' subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of "specialty" shell eggs, such as "organic," "free-range," "nutritionally enhanced," "cage-free," and hatching eggs. (The "Massachusetts Indirect Purchaser Class")

MICHIGAN:

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in Michigan. Specifically excluded from this class are Defendants' subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of "specialty" shell eggs, such as "organic," "free-range," "nutritionally enhanced," "cage-free," and hatching eggs. (The "Michigan Indirect Purchaser Class")

MINNESOTA:

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in Minnesota. Specifically excluded from this class are Defendants' subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of "specialty" shell eggs, such as "organic," "free-range," "nutritionally enhanced," "cage-free," and hatching eggs. (The "Minnesota Indirect Purchaser Class")

MISSISSIPPI:

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in Mississippi. Specifically excluded from this class are Defendants' subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of "specialty" shell eggs, such as "organic," "free-range," "nutritionally enhanced," "cage-free," and hatching eggs. (The "Mississippi Indirect Purchaser Class")

NEBRASKA:

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in Nebraska. Specifically excluded from this class are Defendants' subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of "specialty" shell eggs, such as

“organic,” “free-range,” “nutritionally enhanced,” “cage-free,” and hatching eggs.  
(The “Nebraska Indirect Purchaser Class”)

NEVADA:

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in Nevada. Specifically excluded from this class are Defendants’ subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of “specialty” shell eggs, such as “organic,” “free-range,” “nutritionally enhanced,” “cage-free,” and hatching eggs.  
(The “Nevada Indirect Purchaser Class”)

NEW MEXICO:

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in New Mexico. Specifically excluded from this class are Defendants’ subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of “specialty” shell eggs, such as “organic,” “free-range,” “nutritionally enhanced,” “cage-free,” and hatching eggs.  
(The “New Mexico Indirect Purchaser Class”)

NEW YORK:

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in New York. Specifically excluded from this class are Defendants’ subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of “specialty” shell eggs, such as “organic,” “free-range,” “nutritionally enhanced,” “cage-free,” and hatching eggs.  
(The “New York Indirect Purchaser Class”)

NORTH CAROLINA:

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in North Carolina. Specifically excluded from this class are Defendants’ subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of “specialty” shell eggs, such as “organic,” “free-range,” “nutritionally enhanced,” “cage-free,” and hatching eggs.  
(The “North Carolina Indirect Purchaser Class”)

NORTH DAKOTA:

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the

present and while residing in North Dakota. Specifically excluded from this class are Defendants' subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of "specialty" shell eggs, such as "organic," "free-range," "nutritionally enhanced," "cage-free," and hatching eggs. (The "North Dakota Indirect Purchaser Class")

#### SOUTH DAKOTA:

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in South Dakota. Specifically excluded from this class are Defendants' subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of "specialty" shell eggs, such as "organic," "free-range," "nutritionally enhanced," "cage-free," and hatching eggs. (The "South Dakota Indirect Purchaser Class")

#### TENNESSEE:

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in Tennessee. Specifically excluded from this class are Defendants' subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of "specialty" shell eggs, such as "organic," "free-range," "nutritionally enhanced," "cage-free," and hatching eggs. (The "Tennessee Indirect Purchaser Class")

#### UTAH:

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in Utah. Specifically excluded from this class are Defendants' subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of "specialty" shell eggs, such as "organic," "free-range," "nutritionally enhanced," "cage-free," and hatching eggs. (The "Utah Indirect Purchaser Class")

#### VERMONT:

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in Vermont. Specifically excluded from this class are Defendants' subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of "specialty" shell eggs, such as "organic," "free-range," "nutritionally enhanced," "cage-free," and hatching eggs. (The "Vermont Indirect Purchaser Class")

**WEST VIRGINIA:**

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in West Virginia. Specifically excluded from this class are Defendants' subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of "specialty" shell eggs, such as "organic," "free-range," "nutritionally enhanced," "cage-free," and hatching eggs. (The "West Virginia Indirect Purchaser Class")

**WISCONSIN:**

All individuals and entities that purchased shell eggs from a retailer, for their own use and not for resale, during the Class Period from October 1, 2006 through the present and while residing in Wisconsin. Specifically excluded from this class are Defendants' subsidiaries and affiliates, as well as individuals whose only purchases of shell eggs were purchases of "specialty" shell eggs, such as "organic," "free-range," "nutritionally enhanced," "cage-free," and hatching eggs. (The "Wisconsin Indirect Purchaser Class")

Plaintiffs seek class certification to resolve Defendants' liability pursuant to Section One of the Sherman Act, 15 U.S.C. § 1, state antitrust law and state unjust enrichment law for their alleged conspiracy to raise the commodity prices for shell eggs and egg products by restricting the supply of eggs. As set forth in the Plaintiffs' Memorandum of Law, the proposed Classes meet the requirements for class certification under Rule 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure.

Each Plaintiff meets all the requirements for appointment as Class Representative of their respective Indirect Purchaser State Law Class and the Injunctive Class. Accordingly, Plaintiffs move for an order appointing following individuals and entities as class representatives:

<b>State</b>	<b>Class Rep</b>
Arizona	Nathan Levi Esquerra
Arizona	Scott Friedson
Arizona	John Ryan
California	Morris Clement
California	Jessica Swift
California	Pilar M. De Castro & Co, Inc.
Florida	Jeanne Rice

<b>State</b>	<b>Class Rep</b>
Florida	Joan Gibbons
Iowa	Julia McGuire
Kansas	Donn Camlin
Kansas	Thomas Williams
Massachusetts	Patricia Flynn
Massachusetts	Elizabeth Priest
Michigan	Martin Gojcaj
Michigan	Thomas Roth
Minnesota	Sharon Defren
Mississippi	Leanne Hardin
Nebraska	Dustin Crenshaw
Nebraska	John Anthony Spracklin
Nevada	Rachelle L. Hagendorf
Nevada	Charles Shoten
New Mexico	Trudy Solo
New York	Thomas McManus
New York	Mark Moynahan
North Carolina	Lynsey Allen
North Carolina	Amy Fairchild
South Dakota	Rhonda McGrath
Tennessee	James Anderson
Tennessee	Glenna Sue King
Utah	Michael Dobson
Vermont	Sandra Drown
West Virginia	Lester Skinner
Wisconsin	Robert Nelson
Wisconsin	Jason Oldenburg

In addition, Plaintiffs move for an order appointing the law firms of Lovell Stewart Halebian LLP, Meredith & Narine, Milberg LLP and Straus & Boies, LLP as Co-Lead Class Counsel.

This motion is supported by (1) the accompanying memorandum of law, and all exhibits attached thereto and/or referenced therein; and (2) the Declaration of Krishna B. Narine and all exhibits attached thereto and/or referenced therein, including the Expert Report of Kyle W. Stiegert, Ph.D., and all exhibits attached thereto and/or referenced therein; and (4) such other evidence and argument as may be presented at or before the hearing of this motion.

Plaintiffs respectfully request that this Court grant this motion for class certification, appoint plaintiffs as class representatives, and appoint the undersigned as class counsel.

Dated: August 29, 2014

Respectfully submitted,

/s/ Krishna B. Narine

Krishna B. Narine

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